

Ordinance No.: 17-10
Subdivision Regulation Amend. No.: 11-02
Concerning: Minor Subdivisions
Revised: 1/31/12; Draft No. 2
Introduced: November 8, 2011
Public Hearing: January 17, 2012
Adopted: February 7, 2012
Effective: February 27, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

AN AMENDMENT to the Subdivision Regulations to:

- (1) authorize the approval and recordation of a plat for certain properties classified in a one-family residential zone under the minor subdivision procedure under certain circumstances; and
- (2) generally amend the provisions for the application of the minor subdivision process

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-35A, Minor Subdivisions –Approval
Procedure

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

OPINION

Subdivision Regulation Amendment (SRA) 11-02, Minor Subdivisions, sponsored by Councilmember Floreen, was introduced on November 8, 2011.

SRA 11-02 would expand the existing provisions of Chapter 50 for minor subdivisions to allow the Planning Board to approve plats for certain properties in a one-family residential zone under the minor subdivision process. Specifically, the expansion would allow consolidation of an existing platted lot and a partition of land created as a result of a deed under the minor subdivision process. Application for this new provision would be permitted provided:

- a) in a one-family residential zone, the partition of land created by deed cannot itself be platted under the area and dimensional standards of the zone;
- b) any conditions applicable to the existing lot remain in full force and effect on the new lot;
- c) any required street dedication is provided; and
- d) the subject lot was not identified as an outlot on a plat.

The Planning Board and Planning Staff recommended approval of SRA 11-02 as introduced. The Council held a public hearing on January 17, 2012. Both speakers testified in support of SRA 11-02. Other testimony submitted in the record recommended expanding the circumstances under which a lot could use the minor subdivision process. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on January 30, 2012 to review the amendment. The Committee recommended approval of SRA 11-02 with an additional provision to address the creation of a lot when part of the lot was transferred by deed:

- (11) Creation of a Lot from a Part of a Lot. A part of a previously recorded lot that was created as a result of a deed transfer of land from the lot, and which contains a legally constructed one-family residential dwelling, may be converted into a lot under the minor subdivision procedures if:
 - (A) the part of lot is located in a one-family residential zone; and
 - (B) all applicable conditions or agreements applicable to the subdivision approval creating the original lot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement, or building restriction lines.

* * *

- (e) Lots created under the minor subdivision provisions of sections (1) and (11) may not [A minor lot line adjustment cannot] be used to establish a precedent for a resubdivision that may be filed for other properties located in the same block, subdivision, or neighborhood.

In the opinion of the Planning, Housing, and Economic Development Committee, there is no need to require a preliminary plan of subdivision when the purpose of a record plat is to allow one house where one house currently exists. The Committee-recommended additional minor subdivision provision would not change the criteria for any future resubdivision.

The District Council reviewed Subdivision Regulation Amendment No. 11-02 at a worksession held on February 7, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 11-02 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Section 50-35A is amended as follows:

Section 50-35A. Minor Subdivisions – Approval Procedure.

(a) *Preliminary Plan Not Required.* The submission of a preliminary subdivision plan, [in accordance with the provisions of] under Section 50-34 and Section 50-35, is not required for:

(1) Minor Lot Line Adjustment.

* * *

(2) Conversion of an Outlot into a Lot.

* * *

(3) Consolidation of Two or More Lots or a Part of a lot into One Lot.

* * *

(4) Further Subdivision of a Commercial, Industrial or Multi-Family Residential Lot to Reflect a Change in Ownership, Deed, Mortgage or Lease Line.

* * *

(5) Plat of Correction.

* * *

(6) Plats for Certain Residentially Zoned Parcels Created by Deed Before June 1, 1958.

* * *

(7) Plats for Existing Places of Worship, Private Schools, Country Clubs, Private Institutions and Similar Uses Located on Unplatted Parcels.

* * *

(8) Plats for Certain Residential Lots located in the Rural Density Transfer Zone.

* * *

(9) Parcels that satisfy Section 59-B-8.1 of Chapter 59 may be platted under the minor subdivision procedure if:

* * *

(10) Combining a lot and adjoining property. Except in agricultural zones, the Planning Board may approve plats under the minor subdivision process to consolidate an existing platted lot and a partition of land created as a result of a deed, provided:

(A) in a one-family residential zone, the partition of land created by deed cannot itself be platted under the area and dimensional standards of the zone;

(B) any conditions applicable to the existing lot remain in full force and effect on the new lot;

(C) any required street dedication is provided; and

(D) the subject lot was not identified as an outlot on a plat.

(11) Creation of a Lot from a Part of a Lot. A part of a previously recorded lot that was created as a result of a deed transfer of land from the lot, and which contains a legally constructed one-family residential dwelling, may be converted into a lot under the minor subdivision procedures if:

(A) the part of lot is located in a one-family residential zone; and

(B) all applicable conditions or agreements applicable to the subdivision approval creating the original lot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement, or building restriction lines.

(b) *Procedure for Platting a Minor Subdivision.* The owner of property that satisfies the requirements for a minor subdivision under Section 50-35A(a), above, may submit an application for record plat for approval under Section 50-36 and Section 50-37. In the case of minor subdivisions described in Sections 50-35A, (1), (3) and (4), if no

additional development is proposed, then no additional public improvements may be required by the reviewing agencies beyond those required for the original subdivision.

(c) Minor subdivision approvals are not subject to the resubdivision criteria of Section 50-29(b)(2).

(d) Any lot created through the minor subdivision process and any lot replatted as part of a minor lot line adjustment must satisfy all applicable zoning requirements in Chapter 59.

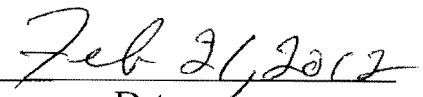
(e) ~~[[A minor lot line adjustment cannot]]~~ Lots created under the minor subdivision provisions of sections (1) and (11) may not be used to establish a precedent for a resubdivision that may be filed for other properties located in the same block, subdivision, or neighborhood.

* * *


Sec. 2. Effective date. This ordinance takes effect 20 days after the date of Council adoption.


Approved:


Isiah Leggett, County Executive


Date

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council


Date